

Steven M. Kroll, Bar No. 216196  
FORD & HARRISON LLP  
350 South Grand Avenue, Suite 2300  
Los Angeles, California 90071  
Telephone: (213) 237-2400  
Facsimile: (213) 237-2401  
skroll@fordharrison.com

Jeffrey D. Mokotoff, GA Bar No. 515472  
FORD & HARRISON LLP  
*Admitted Pro Hac Vice*  
1275 Peachtree Street, NE, Suite 600  
Atlanta, Georgia 30309  
Telephone: (404) 888-3800  
Facsimile: (404) 888-3863  
[jmokotoff@fordharrison.com](mailto:jmokotoff@fordharrison.com)

Attorneys for Defendant  
KNOWLEDGESTORM, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

JASBIR GILL, MAHMOUD  
KEDKAD,

**Plaintiffs,**

V.

KNOWLEDGESTORM, INC., a corporation, DOES 1through 50,

## Defendants.

Case No. C 07-04112 PVT

**DEFENDANT  
KNOWLEDGESTORM, INC.'S  
NOTICE OF UNTIMELY  
OPPOSITION BY PLAINTIFF  
KEDKAD TO ITS MOTION FOR  
SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT ;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

Date: June 3, 2008  
Time 10:00 a.m.  
Crtrm: 5, 4th floor

Action filed: July 13, 2007  
Trial date: August 4, 2008

1 **TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**  
2

3 **PLEASE TAKE NOTICE** that defendant KnowledgeStorm, Inc.  
4 (“Defendant”) hereby submits the following notice of untimely opposition in  
5 support of its motion for summary judgment or, in the alternative, partial summary  
6 judgment against plaintiff Mahmoud Kedkad (“Plaintiff”).  
7

8 Dated: May 20, 2008

FORD & HARRISON LLP

9  
10 By: /s/ Steven M. Kroll  
11 Jeffrey D. Mokotoff  
12 Steven M. Kroll  
13 Attorneys for Defendant  
14 KNOWLEDGESTORM, INC.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. DEFENDANT'S MOTION SHOULD BE GRANTED

Oppositions to motions for summary judgment must comply with Civil Local Rules 7-2 and 7-3. (Civ. L. R. 56-1.) Pursuant to Local Rule 7-3, subsection (a), any opposition to a motion for summary judgment must be served and filed not less than 21 days before the hearing date. (Civ. L. R. 7-3.)

Here, Defendant's motion for summary judgment is noticed for hearing on June 3, 2008. Accordingly, Plaintiff's opposition was due May 13, 2008. Plaintiff did not file or serve its motion until May 20, 2008, the date Defendant's reply is due.

Because Plaintiff's opposition is late, it should be disregarded. Where no factual showing is made in opposition to a motion for summary judgment, the Court may rely entirely on the evidence designated by the moving party in showing no triable issue. Carmen v. San Francisco Unified School Dist., (9<sup>th</sup> Cir. 2001) 237 F.3d 1026, 1029. Accordingly, Defendant requests that the Court rely on the evidence designated by it and grant its motion as set forth in the moving papers.

111

111

111

111

111

1       **II. CONCLUSION**

2           Defendant respectfully requests that the Court disregard Plaintiff's untimely  
3           opposition to its motion for summary judgment and grant the motion in its entirety.  
4

5

6           Dated: May 20, 2008

FORD & HARRISON LLP

7

8           By: /s/ Steven M. Kroll

9           Jeffrey D. Mokotoff

10           Steven M. Kroll

11           Attorneys for Defendant

12           KNOWLEDGESTORM, INC.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**PROOF OF SERVICE**

1 I, Yolanda Dennison, declare:

2 I am a citizen of the United States and employed in Los Angeles County,  
 3 California. I am over the age of eighteen years and not a party to the within-entitled  
 4 action. My business address is 350 South Grand Avenue, Suite 2300, Los Angeles,  
 5 California 90071. On May 20, 2008, I served a copy of the within document(s):

6 **DEFENDANT KNOWLEDGESTORM, INC.'S NOTICE  
 7 OF UNTIMELY OPPOSITION BY PLAINTIFF KEDKAD  
 8 TO ITS MOTION FOR SUMMARY JUDGMENT OR, IN  
 9 THE ALTERNATIVE, PARTIAL SUMMARY  
 JUDGMENT; MEMORANDUM OF POINTS AND  
 AUTHORITIES**

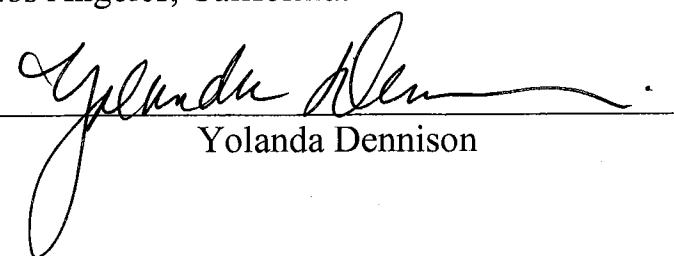
10  by placing the document(s) listed above in a sealed Federal Express  
 11 envelope and affixing a pre-paid air bill, and causing the envelope to  
 be delivered to a Federal Express agent for delivery.

12  
 13 Brian S. Kreger, Esq. Attorney for Plaintiffs  
 14 Lamerto & Kreger Phone: (408) 999-0300  
 15 160 W. Santa Clara St., Suite 1050 Fax: (408) 999-0301  
 San Jose, CA 95113 briank#lambertokreger.com

16 I am readily familiar with the firm's practice of collection and processing  
 17 correspondence for mailing. Under that practice it would be deposited with the  
 18 U.S. Postal Service on that same day with postage thereon fully prepaid in the  
 19 ordinary course of business. I am aware that on motion of the party served, service  
 20 is presumed invalid if postal cancellation date or postage meter date is more than  
 one day after date of deposit for mailing in affidavit.

21 I declare that I am employed in the office of a member of the bar of this court  
 at whose direction the service was made.

22 Executed on May 20, 2008, at Los Angeles, California.

23  
 24   
 25 Yolanda Dennison  
 26  
 27  
 28